

\*E-FILED 1/14/08\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GIUSEPPE "NINO" CAMPANELLA, et al.,

NO. 04-04906 RS

Plaintiffs,

Consolidated With Case No. 05-1945 RS

v.

JEFFREY LONGORIA, et al.,

**ORDER DENYING PLAINTIFFS'  
MOTION TO COMPEL**

Defendants.

On December 9, 2007, Plaintiffs filed a motion to compel defendant County of Santa Clara to produce witnesses under Rule 30 (b) (6) of the Federal Rules of Civil Procedure in response to two deposition notices served by plaintiffs. As of the date that motion was filed, the parties were under an order to meet and confer regarding all then-pending discovery disputes in a renewed effort to resolve them or to narrow the issues. By joint letter brief submitted to the Court on December 13, 2007, the parties reported that they had agreed that the County would produce a witness or witnesses to testify on the topics of County policies regarding the use of canines and helicopters, but that they were otherwise unable to resolve the issues raised by plaintiffs' motion to compel.

At a hearing held on December 14, 2007 regarding various other discovery disputes, the County requested that it be given the opportunity to file a written opposition to plaintiffs' motion, and plaintiffs asserted their intention to file a reply brief. The Court ruled that briefing could go

1 forward on the schedule provided in the Civil Local Rules, but that the matter would then be taken  
2 under submission without further argument, pursuant to Rule 7-1 (b).

3 The County timely filed its opposition on December 24, 2007. The essence of the County's  
4 opposition is that plaintiff's motion was untimely under Rule 26-2, because it was filed more than 7  
5 days after the discovery cut off in this action. Plaintiffs filed no reply brief.

6 The Court agrees that plaintiffs' motion was untimely. Additionally, plaintiffs cannot  
7 contend that they were unaware of Rule 26-2 because on October 11, 2007, the Court denied an  
8 application by defendants for an order shortening time on the express basis that, "[d]iscovery  
9 motions are governed by Civil Local Rule 26-2, which provides that such motions may be filed up  
10 until 7 court days after the discovery cut off."

11 The County represents that it will produce witnesses to testify as to three categories not in  
12 dispute, "irrespective of the outcome of this motion," and it will be expected to adhere to that  
13 promise. The motion to compel, however, is otherwise DENIED.

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15  
16  
17 IT IS SO ORDERED.

18 Dated: January 14, 2008

  
RICHARD SEEBORG  
United States Magistrate Judge

**THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:**

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the Court's CM/ECF program.

**Dated: 1/14/08**

**Richard W. Wieking, Clerk**

**By:        Chambers**